

REMARKS

The present application is subject to a restriction into five species: Group A (Figs. 2-6, 11); Group B (Figs. 7, 8); Group C (Fig. 9); Group D (Fig. 10); and Group E (Figs. 12-14).

Applicant has amended the claims to include a single independent claim that includes the features of original claims 1 and 11. Claims 11, 13 and 19-24 have been cancelled.

Applicant provisionally elects the Group A species. Applicant respectfully submits that claims 1, 2, 14, 15, and 25 correspond to the Group A species of Figs. 2-6 and 11. Claims 16-18 correspond to the Group B species of Figs. 7 and 8. Claim 12 corresponds to the Group C species of Fig. 9. Claims 3-10 correspond to the Group D species of Fig. 10. No pending claims correspond to the Group E species of Figs. 12-14.

Applicant has withdrawn claim 12 of the Group C species of Fig. 9 and claims 3-10 of the Group D species of Fig. 10. Applicant notes that these withdrawn claims are dependent on the elected claims, and thus can be added back into the case should the elected claims be allowed in the present application.

With respect to the restriction between the species of Group A and Group B, Applicant respectfully submits that the Examiner's restriction analysis is incorrect and

requests reconsideration of the same. 35 U.S.C. 121 provides for restriction when two or more independent and distinct inventions are claimed in the same application. MPEP 802.01. The term "independent" means that there is no disclosed relationship between the subjects, i.e. they are unconnected in design, operation or effect. It is readily apparent that in the present application, the claims 16-18 of the Group B species are connected to the provisionally elected Group A species (claims 1, 2, 14, 15, and 25). More specifically, both groups of claims are directed to a device for emitting and detecting light that includes at least one resonant cavity light emitting element integrated as part of a semiconductor substrate. The resonant cavity light emitting element includes a reflector through which light is emitted, the reflector comprising a plurality of alternating layers of high and low refractive index material and a layer of absorbing material. The absorbing layer serves to absorb light of a wavelength different from the light emitted by the light emitting element. Because the invention of the claims of Group A and B are not independent, the Examiner's position regarding restriction/election for the group B claims is incorrect. The Applicant respectfully traverses the outstanding restriction requirement and requests reconsideration of the same.

Should any issues remain outstanding, the Examiner is invited to call the undersigned attorney of record so that the case may proceed expeditiously to allowance.

Respectfully submitted,



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